1. A method of generating routing information in a data communications network having, as elements, nodes and links, the method comprising the steps performed at a first network element of:

receiving at the first network element information relating to a change in the network at a second network element,

determining an affected set of network elements, wherein the affected set comprises network elements which are reachable from the second network element,

determining a furthest network element in the affected set as located at a furthest distance from the first network element,

identifying a sequence in which updating of routing information at each network element in the affected set should occur, and

updating the routing information at the first element in sequence.

The Office Action states that Miles anticipates "**determining a furthest network element in the affected set as located at a furthest distance from the first network element, where the affected set comprises network elements reachable from the second network element**," in paragraph [40]. (Office Action, page 3) This is incorrect.

Miles describes a method and apparatus for constructing a backup route in a data communications network using a reverse spanning tree algorithm. According to Miles, each node in the network generates a backup route by applying the reverse spanning tree method. Miles' paragraph [40] provides:

> [40] The link state protocol relies on a routing algorithm resident at each node. Each node on the network advertises, throughout the network, links to neighboring nodes and provides a cost associated with each link which can be based on any appropriate metric such as link bandwidth or delay and is typically expressed as an integer value. A link may have an asymmetric cost, that is, the cost in the direction AB along a link may be different from the cost in a direction BA. Based on the advertised information in the form of a link state packet (LSP) each node constructs a link state database (LSDB) which is a map of the entire network topology and from that constructs generally a single optimum route to

> each available node based on an appropriate algorithm such as, for example a shortest path first (SPF) algorithm. As a result a "spanning tree" is constructed, rooted at the node and showing an optimum path including intermediate nodes to each available destination node. Because each node has a common LSDB (other than when advertised changes are propagating around the network) any node is able to compute the spanning tree rooted at any other node as well as the "reverse spanning tree", sometimes termed a "sink tree" showing the optimum route for each node from which the node is reachable.
> (Emphasis added)

In this paragraph, Miles describes costs associated with links, advertising link state packets, and constructing a spanning tree for each node in the network. However, constructing a "spanning tree" is not a feature recited in claim 1.

Nowhere does Miles discuss that the **first network element** receives information that the **second network element** is affected by a change, and that a **set of affected elements** comprises elements that are affected by the change at the **second** (not the first) element. Nowhere does Miles discuss determining, from the set of **affected nodes** described above, an element that is the furthest network element in the affected set from **the first network** element. Miles' reverse spanning trees are not computed at the first network element using the set network elements that are affected by the change at the second network element. Therefore, Miles does not anticipate "**determining a furthest network element in the affected set as located at a furthest distance from the first network element, where the affected set comprises network elements reachable from the second network element**," as recited in claim 1.

In fact, the Office Action does not indicate which specific portion of Miles's disclosure describes "receiving at the first network element information relating to a change at a second network element," or which specific portion of Miles describes "determining an affected set of network elements, wherein the affected set comprises network elements which are reachable from the second network element" or which specific portion describes "determining a furthest network element in the affected set as located at a furthest distance from the first network element," as claimed. The only paragraph cited by the Office Action as allegedly anticipating

the above features of claim 1 is paragraph [40], which only describes constructing a "spanning tree."

For all the reasons discussed above, Miles does not anticipate the whole subject matter recited in the applicants' claims.

Reconsideration and withdrawal of the rejection is respectfully requested.

CLAIM 18

Claim 18 recites features similar to those in claim 1. Therefore, for the reasons discussed in claim 1, reconsideration and withdrawal of the rejections of claim 18 is respectfully requested.

B. CLAIMS – 35 U.S.C. 103(a): HARPER, KODIALAM

Claims 1-7, 10-12, 16-24, 27-29, 32-36 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harper US 7,058,016 B1, hereafter "Harper," in view of Kodialam et al. US 6,321,271 B1, hereafter "Kodialam."

Office Action fails to present a prima facie case of unpatentability under 35 U.S.C. §103(a) because Harper is not citable in this application under 35 U.S.C. §103(c)(1) and must be removed as a reference.

Under 35 U.S.C. §103(c)(1), as amended by the CREATE Act of 2004, which also extended the applicability of 35 U.S.C. §103(c)(1) which also extended the applicability of 35 U.S.C. §103(c)(1) to all applications pending on its effective date of December 10, 2004, a reference is not citable against an application under 35 U.S.C. §103(a) if the invention described in the application for patent and the invention described in the prior art reference applied against the application were commonly owned by, or subject to an obligation of assignment to, the same person, at the time the invention in the application for patent was made. See USPTO "Frequently Asked Questions" about 103(c), http://www.uspto.gov/web/offices/dcom/olia/aipa/103cfaq.htm.

The present application is assigned to CISCO TECHNOLOGY, Inc., San Jose, California, as stated in the assignment recorded in the USPTO at reel/frame 014613/0903. The assignee on the face page of Harper is also CISCO TECHNOLOGY, Inc. (reel/frame

011455/0481). Further, at the time that the invention presented in the present application was made, all inventors were under an obligation to assign any later patent application to CISCO TECHNOLOGY, Inc., so that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Based on its filing data and issue data, Harper qualifies as a reference only under 35 U.S.C. 102(e), and not 102(b). Therefore, all requirements of 35 U.S.C. §103(c)(1) are satisfied in the present case with respect to Ball, and Ball is ineligible as a reference.

Applicants respectfully request reconsideration and removal of Harper as a reference.

Reconsideration and withdrawal of the rejection is respectfully requested.

C. CLAIMS – 35 U.S.C. 103(a)

Claims 1-7, 10-12, 16-24, 27-29, 32-36 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harper US 7,058,016 B1, hereafter "Harper," in view of Miles et al. US 2007/0038767 A1, hereafter "Miles." (Office Action, page 9)

For the reasons discussed above, the Office Action fails to present a prima facie case of unpatentability under 35 U.S.C. §103(a) because Harper is not citable in this application under 35 U.S.C. §103(c)(1) and must be removed as a reference.

Applicants respectfully request reconsideration and removal of Harper as a reference.

Reconsideration and withdrawal of the rejection is respectfully requested.

C. DEPENDENT CLAIMS

The claims that are not discussed above depend directly or indirectly on the claims that have been discussed. Therefore, those claims are patentable for the reasons given above. In addition, each of the dependent claims separately introduces features that independently render the claim patentable. However, due to the fundamental differences already identified, and to expedite positive resolution of the examination, separate arguments are not provided for each of the dependent claims at this time.

II. CONCLUSION

For the reasons set forth above, all pending claims are in condition for allowance. A petition for extension of time is hereby made to the extent necessary to make this reply timely filed. If any applicable fee is missing or insufficient, the Commissioner is hereby authorized to charge any applicable fees to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: January 14, 2009

/MalgorzataAKulczycka#50496/
Malgorzata A. Kulczycka
Reg. No. 50,496

2055 Gateway Place Suite 550
San Jose, California 95110-1093
Telephone No.: (408) 414-1228
Facsimile No.: (408) 414-1076